

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRANDON CHE LEE,

Plaintiff,

v.

TO BE NAMED,

Defendant.

2:16-cv-01986-RFB-PAL

ORDER

I. DISCUSSION

On August 22, 2016, Plaintiff, a prisoner in the custody of the U.S. Bureau of Prisons (“BOP”), submitted a civil rights complaint pursuant to *Bivens*. (ECF No. 1-1). Plaintiff did not file an application to proceed *in forma pauperis*. (See ECF No. 1). On September 1, 2016, this Court issued an order directing Plaintiff, within thirty (30) days of that order, to: (1) file a fully complete application to proceed *in forma pauperis*, on the correct form with complete financial attachments in compliance with 28 U.S.C. § 1915(a); or (2) pay the full \$400 fee for filing a civil action (which included the \$350 filing fee and the \$50 administrative fee). (ECF No. 4 at 2). On September 20, 2016, Plaintiff stated that he was having difficulties obtaining a copy of his prison trust account. (ECF No. 7-1 at 1). Plaintiff is currently incarcerated at the U.S. Penitentiary in Atlanta, Georgia. (*Id.*).

Pursuant to 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, Plaintiff must complete an application to proceed *in forma pauperis* and attach both an inmate account statement for the past six months and a properly executed financial certificate. Plaintiff has not submitted an application, a properly executed financial certificate, or an inmate account statement to this Court. Plaintiff will be granted an extension of time to file of his application to proceed *in forma pauperis*, or in the alternative, pay the full filing fee for this action. If Plaintiff chooses to file

1 an application to proceed *in forma pauperis*, he must file a fully complete application to
2 proceed *in forma pauperis*.

3 If, however, Plaintiff continues to have difficulty obtaining a financial certificate and an
4 inmate account statement from prison officials, Plaintiff shall file an affidavit in this case
5 detailing when he requested the documents, who he spoke to about the status of the
6 documents, who he followed up with after he did not receive the documents, and their
7 responses. In other words, if Plaintiff is unable to acquire the necessary documents from
8 prison officials, he must provide the Court with an affidavit that demonstrates that he has done
9 all that he could to acquire the documents by the Court's deadline. Plaintiff's affidavit should
10 include dates of his requests, dates of his follow-up requests, names of the prison officials that
11 he spoke to about the matter, and their responses. If Plaintiff's affidavit demonstrates that he
12 has done all that was possible to acquire the documents, the Court will consider his application
13 to proceed *in forma pauperis* complete.¹

14 **II. CONCLUSION**


15 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court SHALL SEND
16 Plaintiff the approved form application to proceed *in forma pauperis* by a prisoner, as well as
17 the document entitled information and instructions for filing an *in forma pauperis* application.

18 IT IS FURTHER ORDERED that **on or before Friday, November 4, 2016**, Plaintiff
19 shall either: (1) file a fully complete application to proceed *in forma pauperis*, on the correct
20 form with complete financial attachments in compliance with 28 U.S.C. § 1915(a); or (2) file
21 an affidavit detailing the efforts he took to acquire a financial certificate and an inmate account
22 statement from prison officials. If Plaintiff chooses to file an affidavit, his affidavit must
23 describe the actions he took to acquire the documents through Friday, October 28, 2016.
24 Plaintiff shall not file an affidavit before that date. Additionally, Plaintiff must submit an
25 application to proceed *in forma pauperis* to this Court even if he is unable to acquire the
26 necessary attachments from prison officials.

27
28 ¹ Plaintiff must still submit an application to proceed *in forma pauperis* with his affidavit.

1 IT IS FURTHER ORDERED that if Plaintiff does not timely comply with this order,
2 dismissal of this action may result.

3
4 DATED: This 12 day of October, 2016.

5 
6 United States Magistrate Judge